

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ILHAME AZZIZ)	
Plaintiff,)	
V.)	CIVIL ACTION
)	05-10751-NMG
MICHAEL CHERTOFF, as Secretary of the Department)	
of Homeland Security, EDUARDO AGUIRRE, as)	
Director of the U.S. Citizenship & Immigration Services,)	
and DENNIS RIORDAN, Center Director for Boston)	
District Center,)	
Defendants.)	

MOTION TO EXCLUDE ADMINISTRATIVE FILE

The Plaintiff has filed for a judicial review of the denial of her naturalization petition pursuant to 8 USC. § 1421(c). According to this section of the Federal Code, the review will be conducted *de novo* and “the court will make its own findings of fact, and conclusions of law.” The law specifies that the judicial review the validity of the final determination of the naturalization application and the administrative proceedings surrounding such denial.

Because the judicial review focuses solely on the validity of the denial of the naturalization application, the administrative file on the prior naturalization proceedings is neither pertinent nor admissible. In the case of *United States v. Orellana-Blanco*, the court ruled in favor of excluding the Alien file of the Defendant in a marriage fraud case on the grounds that it violated the hearsay rule and the confrontation clause (*United States v. Orellana-Blanco*, 294 F.3d 1143 (9th Cir. 2002)). The court found that because the interview with then Immigration & Naturalization Service was not taped, there was no verbatim account of the Defendant’s testimony during the interview recorded in the file and therefore the file was inadmissible. Under the hearsay rule and

confrontation clause, the interviewing officer's notes in the file could not be admitted as damning evidence without the interviewing officer's personal testimony (*United States v. Orellana-Blanco*, 294 F.3d 1143 (9th Cir. 2002)).

CONCLUSIONS

For the reasons set forth above, the Plaintiff respectfully requests that this Honorable Court exclude the administrative immigration file for the Plaintiff.

Respectfully submitted,

/s/Desmond P. FitzGerald
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CERTIFICATE OF SERVICE

I, Desmond P. FitzGerald, hereby certify that the foregoing Motion to Exclude Administrative File was filed through the Electronic Court Filing system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that the parties have conferred this matter pursuant to L.R. 1.6.

/s/Desmond P. FitzGerald

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